

REMARKS

Consideration of the above-identified application in view of the foregoing amendments and following remarks is respectfully requested.

Claims 61-68 are pending in this application. By this paper, claims 61-65, 67, and 68 are amended. No new matter will be added to this application by entry of these amendments. Entry is respectfully requested.

Independent claims 61, 63, 65, and 67 are amended to specify that “the warning allows the user to determine whether to store the captured image.” Support for these amendments can be found throughout the application as originally filed, including, for example, at page 32, lines 6 – 20.

Claims 65 and 67 are also amended to add the underlined portion of “method for controlling an image capture apparatus.” These amendments are not made for any substantial reason related to patentability.

Claims 61, 62, 63, and 64 are amended to change “image capture apparatus is capable of determining” to either “a control unit adapted to determine” (claims 61 and 63) or “control unit determines” (claims 62 and 64). Support for these amendments can be found throughout the application as originally filed, including, for example, at Figures 1 and 7 and the accompanying text.

Claim 68 is amended to include the underlined portion of “comprising a step of determining.” This amendment is not made for any substantial reason related to patentability.

Claim Rejections

The Office Action has rejected claims 63 and 67 under 35 U.S.C. § 102(b) as allegedly being anticipated by Nakayama (U.S. Patent No. 4,750,032). The Office Action has

also rejected claims 61 and 65 under 35 U.S.C. § 103(a) as allegedly being obvious over Kimura U.S. Patent No. (U.S. Patent No. 4,890,166) in view of Aihara (Japanese Patent Application Publication No. 62-023025) and Nakayama; claims 62 and 66 as allegedly being obvious over Kimura in view of Aihara and Nakayama and further in view of Shiokawa (Japanese Publication No. 60-220671) and Udagawa (U.S. Patent No. 6,982,753); and claims 64 and 68 as allegedly being obvious over Nakayama in view of Udagawa.

Amended independent claims 61, 63, 65, and 67 each require that “the warning allows the user to determine whether to store the captured image.” We believe that the claims should be allowable in view of the prior art.

The Office Action has pointed to Nakayama for allegedly teaching the warning feature. A review of Nakayama has revealed the following discussions about a warning:

“This invention relates to an automatic white balance adjusting system for a color video camera, which is easy to adjust and capable of providing a warning when a once-adjusted white balance must be readjusted as a consequence of change in color temperature of the subject.” (col. 1, lines 6-11)

“On the other hand, if the white balance is adjusted and fixed, correct color will not be obtained if the white balance of the subject being recorded changes due to changes in lighting. Then, a warning device is required to warn the operator that the white balance has shifted substantially out of the initial adjustment.” (col. 5, lines 36-47).

“As a result, if at least one of the integrated values ... is within a predetermined range ... the warning device 33 is operated through the NAND circuits 30 and 31 and the OR circuit 32. In turn, the white balance is automatically adjusted by resetting the up-down counters 16 and 17 when the warning device 33 operates.” (col. 7, lines 17—28).

Accordingly, the warning feature in Nakayama notifies the user that the white balance has shifted out of initial adjustment and that the user must adjust the white balance.

Nakayama does not teach, suggest, or disclose the additional feature of allowing the user to determine whether to store the image based upon the warning. Therefore, claims 61, 63, 65, and 67 should each be in allowable form. Similarly, since claim 62 depends from claim 61, claim 64 depends from claim 63, claim 66 depends from claim 65, and claim 68 depends from claim 67, these claims should also be in allowable form.

Applicants have not independently addressed the rejections of the dependent claims. Applicants submit that, in view of the amendments to the claims presented herein and, for at least similar reasons as to why the independent claims from which the dependent claims depend are believed allowable as discussed supra, the dependent claims are also allowable. Applicants however, reserve the right to address any individual rejections of the dependent claims should such be necessary or appropriate.

Telephone Interview

The undersigned counsel for applicants contacted the Examiner, Jason Whipkey, on October 27, 2006 to request clarification as to why the Office Action rejected claims that are no longer pending in this application. The Examiner returned the phone call and left a message indicating that these extra rejections were made in error and that he would issue an interview summary to clarify the record.

CONCLUSION

For the above-stated reasons, this application is respectfully asserted to be in condition for allowance. An early and favorable examination on the merits is requested. In the event that a telephone conference would facilitate the examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Request to Deposit Account No. 13-4500, Order No. 1232-4605.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 1232-4605.

Respectfully submitted,
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